

State of Arizona  
House of Representatives  
Forty-fifth Legislature  
Second Regular Session  
2002

CHAPTER 283

# HOUSE BILL 2672

AN ACT

AMENDING SECTIONS 35-913, 36-1403, 36-1404, 41-1505, 41-1512, 41-1518, 41-3901, 41-3953, 41-3955 AND 41-3956, ARIZONA REVISED STATUTES; RELATING TO HOUSING.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 35-913, Arizona Revised Statutes, is amended to  
3 read:

4 35-913. Special allocations for mortgage revenue bonds and  
5 mortgage credit certificates; definitions

6 A. This section governs allocations of the state ceiling made by the  
7 director OF THE DEPARTMENT OF COMMERCE pursuant to section 35-902, subsection  
8 C.

9 B. If the portion of a corporation's allocation computed pursuant to  
10 subsection C of this section is less than ten million dollars, the director  
11 OF THE DEPARTMENT OF COMMERCE shall first award ten million dollars of the  
12 state allocation to that corporation. Thereafter, the director OF THE  
13 DEPARTMENT OF COMMERCE shall award the remaining state allocation in the same  
14 proportion that the population of each of the remaining corporations'  
15 jurisdictions bears to the population of this state according to the census,  
16 minus the population of the corporations receiving a ten million dollar  
17 allocation pursuant to this subsection.

18 C. Each corporation that is described in section 35-706, subsection  
19 E and that submits a request for allocation pursuant to section 35-902,  
20 subsection C shall receive a portion of the allocation made by the director  
21 OF THE DEPARTMENT OF COMMERCE in the same proportion that the population of  
22 that corporation's jurisdiction bears to the population of this state,  
23 according to the census but in no event less than ten million dollars.

24 D. At any time before submitting a formal request for allocation, but  
25 no later than January 31, a corporation described in section 35-706,  
26 subsection E may submit to the director an allocation reservation for an  
27 amount not to exceed that portion of the allocation to which the corporation  
28 is entitled pursuant to this subsection. The allocation reservation may  
29 include an offer to use additional allocation amounts described in subsection  
30 E of this section for rural areas. On or before January 31, the Arizona  
31 housing finance authority may submit to the director an allocation  
32 reservation for the amounts described in subsection E of this section for  
33 rural areas. The allocation reservation does not constitute a formal request  
34 for allocation and does not obligate the Arizona housing finance authority  
35 or a corporation to submit a request for allocation.

36 E. The director shall require that one or more qualified mortgage  
37 revenue bond or qualified mortgage credit certificate programs benefit the  
38 residents of rural areas. Between February 1 and March 1, an allocation of  
39 the unreserved portion of the state ceiling under section 35-902, subsection  
40 C shall be made by the director for this purpose. The recipient of this  
41 allocation shall be the Arizona housing finance authority, or THE ARIZONA  
42 HOUSING FINANCE AUTHORITY AND one or more corporations, OR ONE OR MORE  
43 CORPORATIONS that have executed a cooperative agreement and that have jointly  
44 submitted an allocation reservation pursuant to subsection C of this section.  
45 The director shall determine the recipient of the allocation described in

1 this subsection by March 1 from the Arizona housing finance authority or one  
2 or more of those corporations that have offered to use the allocation  
3 described in this subsection in an allocation reservation submitted before  
4 February 1. If neither the Arizona housing finance authority nor any  
5 corporation offers an allocation reservation to use this allocation before  
6 February 1 the director shall select the Arizona housing finance authority  
7 or a corporation for that purpose.

8 F. If the director selects the Arizona housing finance authority, OR  
9 THE ARIZONA HOUSING FINANCE AUTHORITY AND ONE OR MORE CORPORATIONS or one or  
10 more corporations to serve rural areas, the Arizona housing finance  
11 authority, THE ARIZONA HOUSING FINANCE AUTHORITY AND ONE OR MORE CORPORATIONS  
12 or the corporation OR CORPORATIONS shall receive confirmation of the  
13 allocation described in subsection E of this section before  
14 March 1. Mortgage credit certificates or the proceeds of qualified mortgage  
15 revenue bonds made available through the portion of the state ceiling  
16 allocated pursuant to subsection E of this section shall be reserved for at  
17 least a one hundred eighty day period exclusively for the financing of single  
18 family dwelling units in rural areas. The director may extend the one  
19 hundred eighty day period at the time of allocation or a later time based on  
20 market conditions. The director at any time may modify any extension based  
21 on market conditions at the time. After the one hundred eighty day period  
22 or any extension, whichever is later, the director may allocate any  
23 reservation that has not been used for use within the jurisdiction of any  
24 corporation that is described in section 35-706, subsection E and that gives  
25 its consent.

26 G. The validity of a confirmation for qualified mortgage revenue bonds  
27 or a qualified mortgage credit certificate program to benefit residents of  
28 part of the state shall not be affected by reason of qualified mortgage  
29 revenue bonds or a qualified mortgage credit certificate program receiving  
30 a confirmation to benefit residents of another part of the state not being  
31 issued.

32 H. Except as provided in subsections F and G of this section, a  
33 corporation shall not exercise the powers granted under section 35-706,  
34 subsection A, paragraphs 11, 12 and 13 outside of its own jurisdiction.

35 I. At the time a confirmation is issued the director shall determine  
36 in writing the allocation amounts in the manner described in this section.  
37 In determining the recipient or recipients for the allocation described in  
38 subsection E of this section, the director may consider the effectiveness of  
39 alternative program structures in rural areas. No action may be brought  
40 questioning the accuracy of any determination made by the director pursuant  
41 to this section without a finding of the director's bad faith or wilful  
42 misconduct.

43 J. Confirmations of the state ceiling under section 35-902, subsection  
44 C may be applied toward a qualified mortgage revenue bond program or  
45 qualified mortgage credit certificate program in any combination deemed

1 appropriate by the issuing corporation with the approval of its governing  
2 body or by the board of the Arizona housing finance authority for a program  
3 for rural areas established by the Arizona housing finance authority.

4 K. Denial of approval of the use of qualified mortgage revenue bond  
5 proceeds or qualified mortgage credit certificates in a city or town pursuant  
6 to section 35-706 or subsection L of this section does not affect the  
7 validity of the allocation or affect the amount of state allocation that is  
8 allocated for that purpose.

9 L. The Arizona housing finance authority may not permit proceeds of  
10 bonds or a qualified mortgage credit certificate program in rural areas to  
11 be used to finance projects that are owner-occupied single family dwelling  
12 units within the corporate limits of an incorporated city or town, the  
13 unincorporated area of a county or a reservation for an Indian tribe, unless  
14 the governing body of the city, town, county or tribe has approved the  
15 general location and character of the residences to be financed. Before the  
16 issuance of bonds or mortgage credit certificates for that purpose, the  
17 authority shall give written notice to the governing body of each city, town,  
18 county or tribal reservation in which it intends to permit proceeds of an  
19 issue of bonds or mortgage credit certificates to be used to finance projects  
20 that are owner-occupied single family dwelling units and of the general  
21 location and character of the residences that may be financed. The governing  
22 body of the city, town, county or tribe is deemed to have given its approval  
23 unless it denies approval by formal action of the governing body within  
24 twenty-one days after receiving the written notice from the authority.  
25 Approvals given or deemed to have been given with respect to use of proceeds  
26 of an issue of bonds or mortgage credit certificates under this subsection  
27 may not be withdrawn. Denials may be withdrawn by the governing body of a  
28 city, town, county or tribe and approval may be given after a denial is  
29 withdrawn if the authority approves the withdrawal of the denial.

30 M. For purposes of this section:

31 1. "Census" means the most recent United States decennial census or  
32 the special census conducted in accordance with section 42-5033 if it is more  
33 recent than the most recent United States decennial census.

34 2. "Director" means:

35 (a) Through September 30, 2002, the director of the office of housing  
36 development in the governor's office.

37 (b) Beginning on October 1, 2002, the director of the Arizona  
38 department of housing.

39 3. "Population" of a corporation's jurisdiction means population  
40 according to the census. The population of a corporation formed on behalf  
41 of a county equals the population of the county minus the population of any  
42 other corporation that is within the county, that is described in section  
43 35-706, subsection E and that submits a request for allocation pursuant to  
44 section 35-902, subsection C.

1           4. "Rural areas" means all of the area of this state that is not  
2 located within the jurisdiction of a corporation described in section 35-706,  
3 subsection E.

4           Sec. 2. Section 36-1403, Arizona Revised Statutes, is amended to read:  
5           36-1403. Powers of municipalities

6           A. Every public housing authority, city, town and county, in addition  
7 to other powers conferred by this article, may:

8           1. Within its area of operation prepare, carry out, acquire, purchase,  
9 lease, construct, reconstruct, improve, alter, extend or repair any housing  
10 project or projects or part thereof OF THESE PROJECTS, and operate and  
11 maintain the project or projects. For any such purpose the governing body  
12 of the public housing authority, city, town or county may appropriate money  
13 and authorize the use of any property of the public body.

14           2. Purchase its bonds issued pursuant to this article at a price not  
15 exceeding the principal amount thereof OF THE BONDS and accrued interest for  
16 the purpose of canceling such THESE bonds.

17           3. Lease or rent dwellings, houses, accommodations, lands, buildings,  
18 structures or facilities embraced in a housing project and, subject to the  
19 limitations of this article, establish, collect and revise the rents or  
20 charges.

21           4. Own, hold and improve real or personal property.

22           5. Purchase, lease, obtain options on and acquire by gift, grant,  
23 bequest, devise or otherwise any real or personal property or any interest  
24 in that real or personal property.

25           6. Acquire by the exercise of the power of eminent domain any real  
26 property.

27           7. Sell, lease, exchange, transfer, assign, pledge or dispose of any  
28 real or personal property or interest in that real or personal property.

29           8. Procure or agree to the procurement of insurance or guarantees from  
30 the federal government of the payment of bonds or parts of bonds that are  
31 issued pursuant to this article, including the power to pay premiums on such  
32 THAT insurance.

33           9. Except for federal lands or lands that belong to a registered  
34 Indian tribe, enter on any lands, buildings or property for the purpose of  
35 making surveys, soundings and examinations in connection with the planning  
36 or construction, or both, of a housing project.

37           10. Insure or provide for insurance for housing projects of the public  
38 housing authority, city, town or county against such risks as the governing  
39 board, council or commission of the public housing authority, city, town or  
40 county deems advisable.

41           11. Arrange or contract for furnishing by a person, company or agency,  
42 public or private, of services, privileges, works or facilities for or in  
43 connection with a housing project or the occupants thereof OF A HOUSING  
44 PROJECT and include in any construction contract let in connection with a  
45 housing project stipulations requiring the contractor and subcontractors to

1 comply with employment requirements, including those in the constitution and  
2 laws of the state, as to minimum wages and maximum hours of labor, and with  
3 any conditions which THAT the federal government attaches to its financial  
4 aid to the project.

5 12. Within its area of operation:

6 (a) Investigate living, dwelling and housing conditions and the means  
7 and methods of improving such conditions.

8 (b) Determine where blighted areas exist or where there is a shortage  
9 of decent, safe and sanitary dwelling accommodations for persons of low  
10 income.

11 (c) Make studies and recommendations relating to the problem of  
12 clearing, planning, designing and reconstructing blighted areas, and the  
13 problem of providing dwelling accommodations for persons of low income, and  
14 cooperate with the state or any political subdivision thereof OF THIS STATE  
15 in actions taken in connection with such THESE problems.

16 (d) Engage in research, studies and experimentation on the subject of  
17 housing.

18 13. Exercise all or any part or combination of powers granted by this  
19 article.

20 B. A county shall not initiate a housing project within the boundaries  
21 of a city or town unless authorized by resolution of the governing body of  
22 the city or town.

23 C. TO OBTAIN LOW INCOME TAX CREDITS, A COUNTY, CITY, TOWN OR PUBLIC  
24 HOUSING AUTHORITY MAY, PURSUANT TO SECTION 11-952, JOINTLY EXERCISE POWERS  
25 PRESCRIBED IN THIS ARTICLE, INCLUDING THE JOINT SUBMISSION OF AN APPLICATION  
26 FOR LOW INCOME TAX CREDITS FOR ONE OR MORE PROJECTS, ON A COOPERATIVE BASIS  
27 WITH ONE ANOTHER OR MAY JOINTLY FORM A NONPROFIT CORPORATION THAT MAY  
28 EXERCISE THE POWERS PRESCRIBED IN THIS ARTICLE.

29 D. A PUBLIC HOUSING AUTHORITY ESTABLISHED PURSUANT TO THIS ARTICLE  
30 SHALL BE A TAX-LEVYING PUBLIC IMPROVEMENT DISTRICT FOR ALL THE PURPOSES OF  
31 ARTICLE XIII, SECTION 7 OF THE CONSTITUTION OF ARIZONA AND HAS THE POWERS,  
32 PRIVILEGES AND IMMUNITIES SPECIFICALLY GRANTED BY LAW, PROVIDED THAT A PUBLIC  
33 HOUSING AUTHORITY MAY NOT LEVY OR OTHERWISE CHARGE A TAX OR OTHER ASSESSMENT  
34 AGAINST THE TAXPAYERS OF THE JURISDICTION ESTABLISHING THE PUBLIC HOUSING  
35 AUTHORITY.

36 Sec. 3. Section 36-1404, Arizona Revised Statutes, is amended to read:  
37 36-1404. Housing authority; employees

38 A. Every city, town or county, in addition to other powers conferred  
39 by this article, may, by proper resolution of its governing body, create as  
40 an agent of such THAT city, town or county a housing authority of the city,  
41 town or county. The city, town or county may delegate to that authority its  
42 power to acquire, own, maintain and dispose of real estate and appurtenances  
43 to real estate and to construct, maintain, operate and manage a housing  
44 project or projects and, notwithstanding the foregoing enumeration, may  
45 delegate to the authority any or all of the powers conferred on the city,

1 town or county by this article, including the power to borrow money, issue  
2 bonds and acquire real property through the exercise of eminent domain.  
3 However, public housing authorities that act and exist under the control of  
4 a city, town or county may exercise eminent domain or issue bonds only on and  
5 pursuant to specific, formal case by case project preapproval from the  
6 governing body of that city, town or county.

7 B. If the governing body of a city or town adopts a resolution as  
8 provided by subsection A, it shall promptly notify the mayor of the adoption.  
9 As directed by that resolution, the mayor shall appoint at least five persons  
10 as commissioners of the authority. If the board of supervisors adopts a  
11 resolution as provided in subsection A, the board, consistent with that  
12 resolution, shall thereafter appoint at least five persons as commissioners  
13 of the authority. The commissioners first appointed shall be designated to  
14 serve for staggered terms of one, two, ~~AND three, four and five years,~~  
15 ~~respectively,~~ from the date of their appointment, but thereafter  
16 commissioners shall be appointed for a term of office of five ~~FOUR~~ years.  
17 Vacancies from causes other than expiration of term shall be filled for the  
18 unexpired term only. A commissioner of an authority shall not hold any other  
19 office or employment of the city, town or county for which the authority is  
20 created. A commissioner shall hold office until the commissioner's successor  
21 has been appointed and has qualified. A certificate of appointment or  
22 reappointment of a commissioner shall be filed with the appropriate city,  
23 town or county clerk, and the certificate shall be conclusive evidence of the  
24 due and proper appointment of the commissioner. A commissioner shall NOT  
25 receive no compensation for the commissioner's services but shall ~~be entitled~~  
26 IS ELIGIBLE to RECEIVE reimbursement for necessary expenses, including  
27 travel, incurred in the discharge of the commissioner's duties. The  
28 governing body of a city, town or county may elect by majority vote to  
29 provide that each council member or the mayor, while rightfully holding that  
30 office, shall automatically be and act as a commissioner of that government's  
31 public housing authority.

32 C. Powers delegated by a city, town or county to an authority are  
33 vested in the commissioners. A majority of the authorized number of  
34 commissioners constitutes a quorum for all purposes including conducting the  
35 business of the authority and exercising its powers. If the meeting is duly  
36 noticed and a quorum is present, action may be taken by the authority upon  
37 ON a vote of a majority of the commissioners present. The mayor or board of  
38 supervisors shall designate which of the commissioners shall be chairman and  
39 vice chairman, respectively. The governing body of a city, town or county  
40 which THAT creates a housing authority may authorize the authority to employ  
41 a secretary, who shall also be executive director, and technical experts and  
42 such other officers, attorneys, agents and employees, permanent and  
43 temporary, as the authority requires, to determine their qualifications,  
44 duties and compensation, and to delegate to one or more of them such powers  
45 or duties as the authority deems proper. A city, town or, county OR

1 AUTHORITY that has in place an appropriate and sufficient housing department  
2 OR APPROPRIATE AND SUFFICIENT AUTHORITY STAFF MAY, by a resolution of its  
3 governing body may, authorize and direct that the department OR AUTHORITY  
4 STAFF provide any executive, administrative, fiscal or technical experts and  
5 other officers, attorneys, independent contractors, agents and employees  
6 ~~determined by that department acting under the advice and consent of the~~  
7 authority to ANOTHER CITY, TOWN, COUNTY OR AUTHORITY AS MAY be necessary or  
8 desirable to the achievement of the purposes and powers prescribed in this  
9 article.

10 D. Meetings of the public housing commissions are subject to the  
11 public meetings laws.

12 Sec. 4. Section 41-1505, Arizona Revised Statutes, is amended to read:

13 41-1505. Office of housing development; powers and duties

14 A. A state office of housing development is established in the  
15 governor's office to be responsible for establishing policies, procedures and  
16 programs that the office is authorized to conduct to address the affordable  
17 housing issues confronting this state, including housing issues of low income  
18 families, moderate income families, housing affordability, special needs  
19 populations and decaying housing stock. Among other things, the office shall  
20 provide to qualified housing participants and political subdivisions of this  
21 state advisory, consultative, planning, training and educational assistance  
22 for the development of safe, decent and affordable housing, including housing  
23 for low and moderate income households.

24 B. Under the direction of the director, the office shall:

25 1. Establish guidelines applicable to the programs and activities of  
26 the office for the construction or financing of affordable housing and  
27 housing for low and moderate income households in this state. These  
28 guidelines shall meet or exceed all applicable state or local building and  
29 health and safety code requirements and, if applicable, the national  
30 manufactured home construction and safety standards act of 1974 and title VI  
31 of the housing and community development act of 1974 (P.L. 93-383, as amended  
32 by P.L. 95-128, 96-153 and 96-339).

33 2. Provide staff support to the Arizona housing commission and  
34 coordinate its activities.

35 3. Accept and allocate any monies as from time to time may be  
36 appropriated by the legislature for the purposes set forth in this article.

37 4. Perform other duties necessary to administer the state housing  
38 development program.

39 5. Perform the duties prescribed in sections 35-726, 35-728 and 35-913  
40 and chapter 4.3 of this title.

41 6. Stimulate and encourage all local, state, regional and federal  
42 governmental agencies and all private persons and enterprises that have  
43 similar and related objectives and purposes, cooperate with the agencies,  
44 persons and enterprises and correlate office plans, programs and operations  
45 with those of the agencies, persons and enterprises.



1           7. Conduct research on its own initiative or at the request of the  
2 governor, the legislature or state or local agencies pertaining to any office  
3 objectives.

4           8. Provide information and advice on request of any local, state or  
5 federal agencies, private persons and business enterprises on matters within  
6 the scope of office activities.

7           9. Consult with and make recommendations to the governor and the  
8 legislature on all matters concerning office objectives.

9           10. Make annual reports to the governor and the legislature on its  
10 activities, including the geographic location of its activities, its finances  
11 and the scope of its operations.

12           C. Under the direction of the director, the responsibilities of the  
13 office may include the following:

14           1. Assistance to secure construction and mortgage financing from  
15 public and private sector sources.

16           2. Assistance to mortgage financing programs established by industrial  
17 development authorities and political subdivisions of this state.

18           3. Assistance for the acquisition and utilization of federal housing  
19 assistance programs pertinent to enhance the economic feasibility of a  
20 proposed residential development.

21           4. Assistance for the compliance of a proposed residential development  
22 with applicable federal, state and local codes and ordinances.

23           5. Preparation and publication of planning and development guidelines  
24 for the establishment and delivery of housing assistance programs, INCLUDING  
25 GUIDELINES FOR LOCAL GOVERNMENT HOUSING ASSISTANCE PROGRAMS IF REQUESTED BY  
26 A LOCAL GOVERNMENTAL ENTITY.

27           6. Contracting with a federal agency to carry out financial work on  
28 the federal agency's behalf and accepting payment for the work.

29           7. Subcontracting for the financial work prescribed in paragraph 6 of  
30 this subsection and making payments for that subcontracted work based on the  
31 expectation that the federal agency will pay for that work.

32           8. Accepting payment from a federal agency for work prescribed in  
33 paragraph 6 of this subsection.

34           9. Contracting for the services of outside advisers, consultants and  
35 aides reasonably necessary or desirable to enable the office to adequately  
36 perform its duties.

37           10. Contracting and incurring obligations reasonably necessary or  
38 desirable within the general scope of office activities and operations to  
39 enable the office to adequately perform its duties.

40           11. Using any media of communication, publication and exhibition in the  
41 dissemination of information, advertising and publicity in any field of its  
42 purposes, objectives or duties.

43           12. Adopting rules deemed necessary or desirable to govern its  
44 procedures and business.

1       13. Contracting with other agencies in furtherance of any office  
2 program.

3       14. Using monies, facilities or services to provide contributions under  
4 federal or other programs that further the objectives and programs of the  
5 office.

6       15. Accepting gifts, grants, matching monies or direct payments from  
7 public or private agencies or private persons and enterprises for the conduct  
8 of programs that are consistent with the general purposes and objectives of  
9 the office.

10       16. Establishing and collecting fees and receiving reimbursement of  
11 costs in connection with any programs or duties performed by the office.

12       17. Providing staff support to the Arizona housing finance authority  
13 and coordinating its activities.

14       D. For the purposes of this section, the office is exempt from chapter  
15 23 of this title.

16       E. The office is the designated state public housing agency as defined  
17 in the United States housing act of 1937 (42 United States Code sections 1401  
18 through 1440) for the purpose of accepting federal housing assistance monies  
19 and may participate in the housing assistance payments program. Federal  
20 monies may be secured for all areas of this state subject only to the  
21 limitations prescribed in subsection F of this section.

22       F. For areas of this state where an existing public housing authority  
23 has not been established pursuant to section 36-1404, subsection A, the  
24 office acting as a public housing agency may undertake all activities under  
25 the section 8 tenant-based rental housing assistance payment program, except  
26 that the office shall not undertake a section 8 tenant-based rental housing  
27 assistance payment program within the boundaries of a city, town or county  
28 unless authorized by resolution of the governing body of the city, town or  
29 county. If the office accepts monies for a section 8 tenant-based rental  
30 housing assistance payment program for areas of this state where an existing  
31 public housing authority has been established pursuant to section 36-1404,  
32 subsection A, the office shall only accept and secure federal monies to  
33 provide housing for the seriously mentally ill or other disabled populations.  
34 The office may accept and secure federal monies for the undertaking of all  
35 contract administrator activities authorized under a section 8 project-based  
36 rental housing assistance payment program in all areas of this state, and  
37 this participation does not require the authorization of any local governing  
38 body.

39       G. The office shall not itself directly construct, operate or  
40 rehabilitate any housing units, except as may be necessary to protect the  
41 office's collateral or security interest arising out of any office programs.

42       H. Notwithstanding any other provision of this section, the office may  
43 obligate monies as loans or grants applicable to programs and activities of  
44 the office for the purpose of providing housing opportunities for low and

1 moderate income households or for housing affordability or to prevent or  
2 combat decaying housing stock.

3 ~~I. For activities authorized in subsection C, paragraphs 1, 2, 3, 6~~  
4 ~~and 15 and subsections E and F of ANY CONSTRUCTION PROJECT FINANCED BY THE~~  
5 ~~OFFICE PURSUANT TO this section, except for contract administration~~  
6 ~~activities in connection with the project-based section 8 program, the office~~  
7 ~~shall notify a city, town, county or tribal government that a program or~~  
8 ~~project is planned for its jurisdiction and, before proceeding, shall seek~~  
9 ~~comment from the governing body of the city, town, county or tribal~~  
10 ~~government or an official authorized by the governing body of the city, town,~~  
11 ~~county or tribal government. The office shall not interfere with or attempt~~  
12 ~~to override the local jurisdiction's planning, zoning or land use~~  
13 ~~regulations.~~

14 Sec. 5. Section 41-1512, Arizona Revised Statutes, is amended to read:  
15 41-1512. Housing trust fund; purpose

16 A. The housing trust fund is established and shall be administered by  
17 the director. The fund consists of monies from unclaimed property deposited  
18 in the fund pursuant to section 44-313 and investment earnings.

19 B. On notice from the office of housing development, the state  
20 treasurer shall invest and divest monies in the fund as provided by section  
21 35-313, and monies earned from investment shall be credited to the fund.

22 C. Fund monies shall be spent on approval of the office of housing  
23 development for developing projects and programs connected with providing  
24 housing opportunities for low and moderate income households and for housing  
25 affordability and Arizona housing finance authority programs. Pursuant to  
26 section 44-313, subsection A, a portion of fund monies shall be used  
27 exclusively for affordable housing in rural areas.

28 D. In approving the expenditure of monies, the director shall give  
29 priority to funding projects that provide for operating, constructing or  
30 renovating facilities for housing for low income families and that provide  
31 housing and shelter to families that have children.

32 E. The director shall report annually to the legislature on the status  
33 of the housing trust fund. The report shall include a summary of facilities  
34 for which funding was provided during the preceding fiscal year, showing the  
35 cost and geographic location of each facility and the number of individuals  
36 benefiting from the operation, construction or renovation of the facility.  
37 The report shall be submitted to the president of the senate and the speaker  
38 of the house of representatives no later than September 1 of each year.

39 F. Monies in the housing trust fund are exempt from the provisions of  
40 section 35-190 relating to lapsing of appropriations.

41 G. An amount not to exceed ten per cent of the housing trust monies  
42 may be appropriated annually by the legislature to the office for  
43 administrative costs in providing services relating to the housing trust  
44 fund.

1       H. For activities ~~authorized in~~ ANY CONSTRUCTION PROJECT FINANCED BY  
2 THE OFFICE PURSUANT TO this section, the office shall notify a city, town,  
3 county or tribal government that a ~~program or~~ project is planned for its  
4 jurisdiction and, before proceeding, shall seek comment from the governing  
5 body of the city, town, county or tribal government or an official authorized  
6 by the governing body of the city, town, county or tribal government. The  
7 office shall not interfere with or attempt to override the local  
8 jurisdiction's planning, zoning or land use regulations.

9       Sec. 6. Section 41-1518, Arizona Revised Statutes, is amended to read:

10       41-1518. Housing development fund; purpose

11       A. The housing development fund is established for the purpose of  
12 implementing an affordable housing demonstration program in areas in this  
13 state that contain state prison facilities. The fund consists of monies  
14 provided from the housing trust fund pursuant to section 44-313,  
15 subsection A, paragraph 2. The office of housing development shall  
16 administer the fund.

17       B. The office of housing development shall allocate fund monies as  
18 loans or grants for the construction or renovation of facilities for  
19 affordable housing pursuant to this section OR FOR ADVANCING DOWN PAYMENTS,  
20 CLOSING COSTS OR MORTGAGE AMOUNT REDUCTIONS.

21       C. The communities of Buckeye, Douglas, Florence, Safford, Winslow and  
22 Yuma and other communities that are selected as sites for future prison  
23 facilities are eligible to receive monies pursuant to this section. A  
24 project is eligible to receive funding if the project is within a twenty mile  
25 radius of an existing or future prison site.

26       D. The office of housing development shall give preference to projects  
27 with local government support and commitments, including local general funds,  
28 fee waivers, government sponsored infrastructure improvements and land  
29 donations, and to projects that provide housing and shelter to families and  
30 individuals who are employed by state prison facilities.

31       E. Monies in the fund shall be used to provide long-term housing  
32 opportunities for low and moderate income households and for housing  
33 affordability for areas authorized under subsection C of this section.

34       F. Five hundred thousand dollars of the monies in the fund shall be  
35 used for housing in eligible areas. Other monies in the fund shall be used  
36 for any purpose provided by this section.

37       G. The director of the office of housing development may grant loans  
38 from the fund to assist eligible communities in funding housing. The  
39 director may grant loans pursuant to the following terms and conditions:

40       1. The loans shall be made only for projects that meet the  
41 requirements of this section and that demonstrate financial viability.

42       2. The director of the office of housing development may assess an  
43 administrative fee on each loan to cover the annual cost to this state of  
44 administering the loan program.

1           3. Each loan shall be evidenced by a contract or contracts between a  
2 political subdivision, a for-profit or not-for-profit housing developer and  
3 the director of the office of housing development acting on behalf of the  
4 state or any combination of a political subdivision, a housing developer and  
5 the director. The contract shall provide for at least annual payments of  
6 principal and may provide for payment of administrative fees for the term of  
7 the loan.

8           4. Each contract shall provide that the attorney general may commence  
9 any action that is necessary to enforce the contract and to achieve the  
10 repayment of loans that are made pursuant to this section.

11          H. Loan payments and administrative fees received pursuant to  
12 subsection G of this section shall be deposited, pursuant to sections 35-146  
13 and 35-147, in the housing development fund.

14          I. Monies in the fund may also be spent for grants or other purposes  
15 that meet the requirements that are imposed on the use of the monies.

16          J. The director of the office of housing development shall report  
17 annually to the legislature on the status of the fund. The report shall  
18 include a summary of facilities for which funding was provided during the  
19 preceding fiscal year and shall show the cost and geographic location of each  
20 facility and the number of individuals who benefitted from the construction  
21 or renovation of the facility. The report shall be submitted to the  
22 president of the senate and the speaker of the house of representatives no  
23 later than September 1 of each year.

24          K. Monies in the fund are continuously appropriated. On notice from  
25 the office of housing development, the state treasurer shall invest and  
26 divest monies in the fund as provided by section 35-313, and monies earned  
27 from investment shall be credited to the fund. Monies in the fund are exempt  
28 from the provisions of section 35-190 relating to lapsing of appropriations.

29          L. For activities ~~authorized in~~ ANY CONSTRUCTION PROJECT FINANCED BY  
30 THE OFFICE PURSUANT TO this section, the office shall notify a city, town,  
31 county or tribal government that a ~~program or~~ project is planned for its  
32 jurisdiction and, before proceeding, shall seek comment from the governing  
33 body of the city, town, county or tribal government or an official authorized  
34 by the governing body of the city, town, county or tribal government. The  
35 office shall not interfere with or attempt to override the local  
36 jurisdiction's planning, zoning or land use regulations.

37          Sec. 7. Section 41-3901, Arizona Revised Statutes, is amended to read:

38          41-3901. Definitions

39          In this article, unless the context otherwise requires:

40          1. "Agreement" means any loan or other agreement, contract, note,  
41 mortgage, deed of trust, trust indenture, lease, sublease or other such  
42 instrument entered into by the authority.

43          2. "Authority" means the Arizona housing finance authority.

44          3. "Board" means the board of directors of the authority.

45          4. "Bonds" means any bonds issued pursuant to this article.

1           5. "Certificates" means mortgage credit certificates.

2           6. "Costs":

3           (a) Means all costs incurred in the issuance of bonds or certificates,  
4 including insurance policy, credit enhancement, legal, accounting,  
5 consulting, printing, advertising and travel expenses, plus any authority  
6 administrative fees.

7           (b) May include interest on bonds issued pursuant to this article for  
8 a reasonable time before and during the time the proceeds are used.

9           7. "Federal agency" means the United States or any agency or agencies  
10 of the United States.

11          8. "Housing facility":

12          (a) Means any work or undertaking that is designed and financed  
13 pursuant to this article for the primary purpose of providing decent, safe  
14 and sanitary dwelling accommodations.

15          (b) Includes any buildings, land, equipment, facilities or other real  
16 or personal property the board finds either to be:

17           (i) necessary to ensure required occupancy. or balanced community  
18 development.

19           (ii) Necessary or desirable for sound economic or commercial  
20 development of a community.

21          9. "Trustee" means any bank or trust company with authority to  
22 exercise trust powers in this state.

23          Sec. 8. Section 41-3953, Arizona Revised Statutes, is amended to read:

24          41-3953. Department powers and duties

25          A. The department is responsible for establishing policies, procedures  
26 and programs that the department is authorized to conduct to address the  
27 affordable housing issues confronting this state, including housing issues  
28 of low income families, moderate income families, housing affordability,  
29 special needs populations and decaying housing stock. Among other things,  
30 the department shall provide to qualified housing participants and political  
31 subdivisions of this state financial, advisory, consultative, planning,  
32 training and educational assistance for the development of safe, decent and  
33 affordable housing, including housing for low and moderate income households.

34          B. Under the direction of the director, the department shall:

35           1. Establish guidelines applicable to the programs and activities of  
36 the department for the construction and financing of affordable housing and  
37 housing for low and moderate income households in this state. These  
38 guidelines shall meet or exceed all applicable state or local building and  
39 health and safety code requirements and, if applicable, the national  
40 manufactured home construction and safety standards act of 1974 and title VI  
41 of the housing and community development act of 1974 (P.L. 93-383, as amended  
42 by P.L. 95-128, 96-153 and 96-339). GUIDELINES ESTABLISHED PURSUANT TO THIS  
43 PARAGRAPH DO NOT APPLY TO THE DEPARTMENT'S ACTIVITIES PRESCRIBED IN SECTION  
44 35-726, SUBSECTION E.

- 1           2. Provide staff support to the Arizona housing commission and  
2      coordinate its activities.
- 3           3. Accept and allocate any monies as from time to time may be  
4      appropriated by the legislature for the purposes set forth in this article.
- 5           4. Perform other duties necessary to administer this chapter.
- 6           5. Perform the duties prescribed in sections 35-726, 35-728 and 35-913  
7      and chapter 4.3 of this title.
- 8           6. Stimulate and encourage all local, state, regional and federal  
9      governmental agencies and all private persons and enterprises that have  
10     similar and related objectives and purposes, cooperate with the agencies,  
11     persons and enterprises and correlate department plans, programs and  
12     operations with those of the agencies, persons and enterprises.
- 13          7. Conduct research on its own initiative or at the request of the  
14     governor, the legislature or state or local agencies pertaining to any  
15     department objectives.
- 16          8. Provide information and advice on request of any local, state or  
17     federal agencies, private persons and business enterprises on matters within  
18     the scope of department activities.
- 19          9. Consult with and make recommendations to the governor and the  
20     legislature on all matters concerning department objectives.
- 21          10. Make annual reports to the governor and the legislature on its  
22     activities, including the geographic location of its activities, its finances  
23     and the scope of its operations.
- 24          C. Under the direction of the director, the department may:  
25            1. Assist in securing construction and mortgage financing from public  
26     and private sector sources.
- 27            2. Assist mortgage financing programs established by industrial  
28     development authorities and political subdivisions of this state.
- 29            3. Assist in the acquisition and use of federal housing assistance  
30     programs pertinent to enhance the economic feasibility of a proposed  
31     residential development.
- 32            4. Assist in the compliance of a proposed residential development with  
33     applicable federal, state and local codes and ordinances.
- 34            5. Prepare and publish planning and development guidelines for the  
35     establishment and delivery of housing assistance programs.
- 36            6. Contract with a federal agency to carry out financial work on the  
37     federal agency's behalf and accept payment for the work.
- 38            7. Subcontract for the financial work prescribed in paragraph 6 of  
39     this subsection and make payments for that subcontracted work based on the  
40     expectation that the federal agency will pay for that work.
- 41            8. Accept payment from a federal agency for work prescribed in  
42     paragraph 6 of this subsection and deposit those payments in the Arizona  
43     department of housing program fund established by section 41-3957.

1       9. Contract for the services of outside advisers, consultants and  
2 aides reasonably necessary or desirable to enable the department to  
3 adequately perform its duties.

4       10. Contract and incur obligations reasonably necessary or desirable  
5 within the general scope of department activities and operations to enable  
6 the department to adequately perform its duties.

7       11. Use any media of communication, publication and exhibition in the  
8 dissemination of information, advertising and publicity in any field of its  
9 purposes, objectives or duties.

10       12. Adopt rules deemed necessary or desirable to govern its procedures  
11 and business.

12       13. Contract with other agencies in furtherance of any department  
13 program.

14       14. Use monies, facilities or services to provide contributions under  
15 federal or other programs that further the objectives and programs of the  
16 department.

17       15. Accept gifts, grants, matching monies or direct payments from  
18 public or private agencies or private persons and enterprises for the conduct  
19 of programs that are consistent with the general purposes and objectives of  
20 this article and deposit these monies in the Arizona department of housing  
21 program fund established by section 41-3957.

22       16. Establish and collect fees and receive reimbursement of costs in  
23 connection with any programs or duties performed by the department and  
24 deposit the fees and cost reimbursements in the Arizona department of housing  
25 program fund established by section 41-3957.

26       17. Provide staff support to the Arizona housing finance authority and  
27 coordinate its activities.

28       D. For the purposes of this section, the department is exempt from  
29 chapter 23 of this title.

30       E. The department is the designated state public housing agency as  
31 defined in the United States housing act of 1937 (42 United States Code  
32 sections 1401 through 1440) for the purpose of accepting federal housing  
33 assistance monies and may participate in the housing assistance payments  
34 program. Federal monies may be secured for all areas of this state subject  
35 only to the limitations prescribed in subsection F of this section.

36       F. For areas of this state where an existing public housing authority  
37 has not been established pursuant to section 36-1404, subsection A, the  
38 department acting as a public housing agency may undertake all activities  
39 under the section 8 tenant-based rental housing assistance payment program,  
40 except that the department shall not undertake a section 8 tenant-based  
41 rental housing assistance payment program within the boundaries of a city,  
42 town or county unless authorized by resolution of the governing body of the  
43 city, town or county. If the department accepts monies for a section 8  
44 tenant-based rental housing assistance payment program for areas of this  
45 state where an existing public housing authority has been established



1 pursuant to section 36-1404, subsection A, the department shall only accept  
2 and secure federal monies to provide housing for the seriously mentally ill  
3 or other disabled populations. The department may accept and secure federal  
4 monies for undertaking all contract administrator activities authorized under  
5 a section 8 project-based rental housing assistance payment program in all  
6 areas of this state and this participation does not require the authorization  
7 of any local governing body.

8 G. The department shall not itself directly own, construct, operate  
9 or rehabilitate any housing units, except as may be necessary to protect the  
10 department's collateral or security interest arising out of any department  
11 programs.

12 H. Notwithstanding any other provision of this section, the department  
13 may obligate monies as loans or grants applicable to programs and activities  
14 of the department for the purpose of providing housing opportunities for low  
15 or moderate income households or for housing affordability or to prevent or  
16 combat decaying housing stock. Unless otherwise required by federal or state  
17 law, any loan repayments shall be deposited in the Arizona department of  
18 housing program fund established by section 41-3957.

19 I. ~~For activities authorized in ANY CONSTRUCTION PROJECT FINANCED BY~~  
20 ~~THE DEPARTMENT PURSUANT TO subsection C, paragraphs 1, 2, 3, 6 and 15 and~~  
21 ~~subsections E and F of this section,~~ except for contract administration  
22 activities in connection with the project-based section 8 program, the  
23 department shall notify a city, town, county or tribal government that a  
24 program or project is planned for its jurisdiction and, before proceeding,  
25 shall seek comment from the governing body of the city, town, county or  
26 tribal government or an official authorized by the governing body of the  
27 city, town, county or tribal government. The department shall not interfere  
28 with or attempt to override the local jurisdiction's planning, zoning or land  
29 use regulations.

30 Sec. 9. Section 41-3955, Arizona Revised Statutes, is amended to read:

31 41-3955. Housing trust fund; purpose

32 A. The housing trust fund is established, and the director shall  
33 administer the fund. The fund consists of monies from unclaimed property  
34 deposited in the fund pursuant to section 44-313 and investment earnings.

35 B. On notice from the department, the state treasurer shall invest  
36 and divest monies in the fund as provided by section 35-313, and monies  
37 earned from investment shall be credited to the fund.

38 C. Fund monies shall be spent on approval of the department for  
39 developing projects and programs connected with providing housing  
40 opportunities for low and moderate income households and for housing  
41 affordability and Arizona housing finance authority programs. Pursuant to  
42 section 44-313, subsection A, a portion of fund monies shall be used  
43 exclusively for housing in rural areas.

44 D. In approving the expenditure of monies, the director shall give  
45 priority to funding projects that provide for operating, constructing or

1 renovating facilities for housing for low income families and that provide  
2 housing and shelter to families that have children.

3 E. The director shall report annually to the legislature on the  
4 status of the housing trust fund. The report shall include a summary of  
5 facilities for which funding was provided during the preceding fiscal year  
6 and shall show the cost and geographic location of each facility and the  
7 number of individuals benefiting from the operation, construction or  
8 renovation of the facility. The report shall be submitted to the president  
9 of the senate and the speaker of the house of representatives no later than  
10 September 1 of each year.

11 F. Monies in the housing trust fund are exempt from the provisions of  
12 section 35-190 relating to lapsing of appropriations.

13 G. An amount not to exceed ten per cent of the housing trust fund  
14 monies may be appropriated annually by the legislature to the department for  
15 administrative costs in providing services relating to the housing trust  
16 fund.

17 H. For activities ~~authorized in~~ ANY CONSTRUCTION PROJECT FINANCED BY  
18 THE DEPARTMENT PURSUANT TO this section, the department shall notify a city,  
19 town, county or tribal government that a ~~program or~~ project is planned for  
20 its jurisdiction and, before proceeding, shall seek comment from the  
21 governing body of the city, town, county or tribal government or an official  
22 authorized by the governing body of the city, town, county or tribal  
23 government. The department shall not interfere with or attempt to override  
24 the local jurisdiction's planning, zoning or land use regulations.

25 Sec. 10. Section 41-3956, Arizona Revised Statutes, is amended to  
26 read:

27 41-3956. Housing development fund; purpose

28 A. The housing development fund is established for the purpose of  
29 implementing a housing demonstration program in areas in this state that  
30 contain state prison facilities. The fund consists of monies provided from  
31 the housing trust fund pursuant to section 44-313, subsection A, paragraph 2.  
32 The department shall administer the fund.

33 B. The department shall allocate fund monies as loans or grants for  
34 the construction or renovation of facilities for housing pursuant to this  
35 section OR FOR ADVANCING DOWN PAYMENTS, CLOSING COSTS OR MORTGAGE AMOUNT  
36 REDUCTIONS.

37 C. A project is eligible to receive funding if the project is within  
38 a twenty mile radius of an existing or future prison site. The communities  
39 of Buckeye, Douglas, Florence, Safford, Winslow and Yuma and other  
40 communities that are selected as sites for future prison facilities are  
41 eligible to receive monies pursuant to this section.

42 D. The department shall give preference to projects with local  
43 government support and commitments, including local general funds, fee  
44 waivers, government sponsored infrastructure improvements and land donations.

1 and to projects that provide housing and shelter to families and individuals  
2 who are employed by state prison facilities.

3 E. Monies in the fund shall be used to provide long-term housing  
4 opportunities for low and moderate income households and for housing  
5 affordability for areas authorized under subsection C of this section.

6 F. Five hundred thousand dollars of the monies in the fund shall be  
7 used for housing in eligible areas. Other monies in the fund shall be used  
8 for any purpose provided by this section.

9 G. The director may issue loans from the fund to assist eligible  
10 communities in funding housing. The director may issue loans pursuant to the  
11 following terms and conditions:

12 1. The loans shall be made only for projects that meet the  
13 requirements of this section and that demonstrate financial viability.

14 2. The director may assess an administrative fee on each loan to cover  
15 the annual cost to this state of administering the loan program.

16 3. Each loan shall be evidenced by a contract or contracts between a  
17 political subdivision, a for profit or nonprofit housing developer and the  
18 director acting on behalf of the state or any combination of a political  
19 subdivision, a housing developer and the director. The contract shall  
20 provide for at least annual payments of principal and may provide for payment  
21 of administrative fees for the term of the loan.

22 4. Each contract shall provide that the attorney general may commence  
23 any action that is necessary to enforce the contract and to achieve the  
24 repayment of loans that are made pursuant to this section.

25 H. Loan payments and administrative fees received pursuant to  
26 subsection G of this section shall be deposited, PURSUANT TO SECTIONS 35-146  
27 AND 35-147, in the housing development fund.

28 I. Monies in the fund may also be spent for grants or other purposes  
29 that meet the requirements that are imposed on the use of the monies.

30 J. The director shall report annually to the legislature on the status  
31 of the fund. The report shall include a summary of facilities for which  
32 funding was provided during the preceding fiscal year and shall show the cost  
33 and geographic location of each facility and the number of individuals who  
34 benefited from the construction or renovation of the facility. The report  
35 shall be submitted to the president of the senate and the speaker of the  
36 house of representatives no later than September 1 of each year.

37 K. Monies in the fund are continuously appropriated. On notice from  
38 the department, the state treasurer shall invest and divest monies in the  
39 fund as provided by section 35-313, and monies earned from investment shall  
40 be credited to the fund. Monies in the fund are exempt from the provisions  
41 of section 35-190 relating to lapsing of appropriations.

42 L. For activities ~~authorized in~~ ANY CONSTRUCTION PROJECT FINANCED BY  
43 THE DEPARTMENT PURSUANT TO this section, the department shall notify a city,  
44 town, county or tribal government that a ~~program or~~ project is planned for  
45 its jurisdiction and, before proceeding, shall seek comment from the

1 governing body of the city, town, county or tribal government or an official  
2 authorized by the governing body of the city, town, county or tribal  
3 government. The department shall not interfere with or attempt to override  
4 the local jurisdiction's planning, zoning or land use regulations.

5 Sec. 11. Effective date

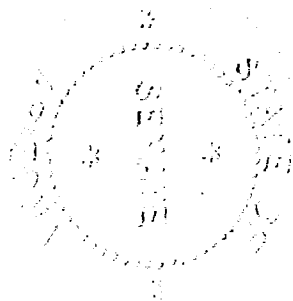
6 Sections 41-3953 and 41-3956, Arizona Revised Statutes, as amended by  
7 this act, are effective from and after September 30, 2002.

8 Sec. 12. Housing finance review board bonds; transfer of  
9 powers, duties and assets to Arizona housing finance  
10 authority

11 Notwithstanding Laws 2001, chapter 22, all powers and duties concerning  
12 any bonds issued by the former Arizona housing finance review board are  
13 transferred to the Arizona housing finance authority. All assets received  
14 with respect to the bonds are also transferred to the Arizona housing finance  
15 authority.

APPROVED BY THE GOVERNOR MAY 21, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 22, 2002.



Passed the House March 27, 2002,

by the following vote: 51 Ayes,

5 Nays, 4 Not Voting

[Signature]  
Speaker of the House

Norman L. Moore  
Chief Clerk of the House

Passed the Senate April 25, 2002

by the following vote: 20 Ayes,

8 Nays, 2 Not Voting

[Signature]  
President of the Senate

Charmine Billington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

H.B. 2672

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

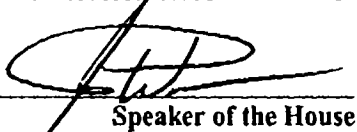
\_\_\_\_\_  
Secretary of State

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

May 15, 2002,

by the following vote: 41 Ayes,

14 Nays, 5 Not Voting

  
Speaker of the House

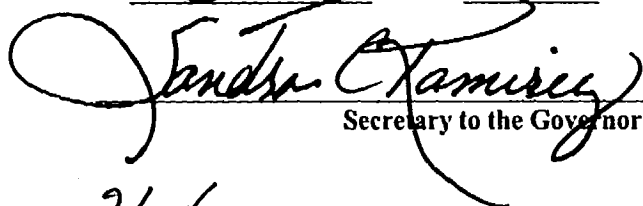
  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

15 day of May, 2002

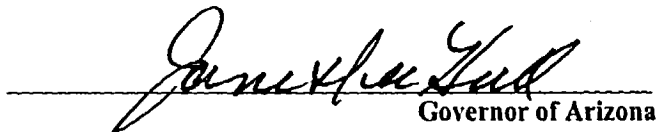
at 3:00 o'clock P. M.

  
Secretary to the Governor

Approved this 21st day of

May, 2002,

at 10:15 o'clock A M.

  
Governor of Arizona

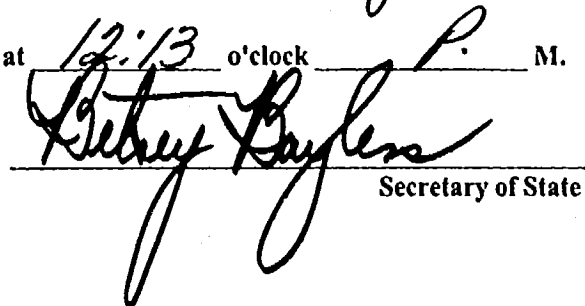
H.B. 2672

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 22 day of May, 2002

at 12:13 o'clock P. M.

  
Secretary of State